

Rowe v. Ray

Civil Action No. 3:19 cv 418

**EXHIBIT A**



**In the Matter Of:**

UHURU ROWE v. 3:18 HAROLD C. CLARKE

**LT. CARPENTER**

*May 31, 2019*

UHURU ROWE v. 3:18 HAROLD C. CLARKE  
CARPENTER, LT. on 05/31/2019

4 UHURU ROWE,  
5 Plaintiff,  
6 v. Case No.  
7 HAROLD C. CLARKE, et al.  
UHURU ROWE vs. HAROLD C. CLARKE,  
CARPENTER, LT on 05/31/2019  
Defendants.

2 DEPOSITION OF LT. MICHELLE CARPENTER

May 21, 2019

## Greensville, Virginia

14 HALASZ REPORTING & VIDEO

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UHURU ROWE v. 3:18 HAROLD C. CLARKE  
CARPENTER, LT. on 05/31/2019

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1	Deposition of LT. MICHELLE CARPENTER, taken by and	
2	before Cynthia G. Shortridge, Notary Public in and for the	
3	Commonwealth of Virginia at large, pursuant to Rule 4:5 of	
4	the Rules of the Supreme Court of Virginia, and by Notice to	
5	take Deposition, commencing at 1:40 p.m., May 31, 2019, at	
6	the Greensville Correctional Center, 901 Corrections Way,	
7	Jarratt, VA 23870.	
8		
9	APPEARANCES:	
10		
11	BY: JEFFREY E. FOGEL, ESQUIRE	
12	attorney, of counsel for the Plaintiff	
13	(9113 E. Jeff CARPENTER, LT. on 05/31/2019	
14	Charlottesville, VA 22902)	
15		
16	OFFICE OF THE ATTORNEY GENERAL	
17	BY: LAURA MAUGHAN, ESQUIRE,	
18	ASSISTANT ATTORNEY GENERAL	
19	attorney, of counsel for the Defendant	
20	(202 N. 9th Street, 6th Floor,	
21	Richmond, VA 23219)	
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23		
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25		
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1	A. Yes, I do.	1 Mr. Rowe's existence in March of 2018. You started off
2	Q. Do you investigate staff conduct?	2 telling me about a petition.
3	A. Yes, I do.	3 A. Correct.
4	Q. And you investigate that conduct both outside as	4 Q. Tell me about what Mr. Rowe's connection is to that
5	well as within the prison walls?	5 petition.
6	A. Correct.	6 A. It was a petition going around. Mr. Rowe did sign
7	Q. And you do those investigations about prisoners	7 the petition, that he admitted to signing the petition that
8	outside the walls?	8 was going around. He didn't know what it was for. And I
9	A. Correct.	9 have seen the copy of the petition and everything and
10	Q. As well as employees?	10 Mr. Rowe did sign it.
11	A. Correct.	11 Q. Okay. How many other people signed it?
12	Q. When did you first become aware of the existence of	12 A. It was numerous offenders.
13	Mr. Rowe? <small>UHURU ROWE v. 3:18 HAROLD C. CLARKE CARPENTER, LT. on 05/31/2019</small>	13 Q. Pardon?
14	A. I want to say it was 2018 in March.	14 A. It was several offenders.
15	Q. And how?	15 Q. Three, 300?
16	A. February or March.	16 A. I'm going to say a good 40, 45.
17	Q. And how did he come to your attention?	17 Q. And how did you become aware of that petition?
18	A. Through a petition and some blogs going out.	18 A. By searching offender Pugh'sley's property.
19	Q. Okay. Tell me about the petition?	19 Q. And when did you -- did you get the petition from
20	A. It was a petition going around dealing with riots.	20 his property?
21	Q. Dealing with them in what respect?	21 A. Yes, sir, we did.
22	A. Inside of the institution.	22 Q. And that's where you saw Mr. Rowe's name?
23	Q. There was a petition going around dealing with riots	23 A. Yes, sir.
24	inside the institution?	24 Q. Among approximately 40 other people?
25	A. Yes, and --	25 A. Correct.
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1	Q. Discouraging them?	1 Q. Was there anything special about Mr. Rowe's name
2	A. Correct.	2 among those 40?
3	Q. Discouraging them?	3 A. No, sir, his name and state number was beside where
4	A. Correct.	4 his signature was.
5	Q. Who was circulating that petition?	5 Q. Do you still have that petition?
6	A. Who was circulating?	6 A. Do I have it?
7	Q. Yes.	7 Q. Yeah.
8	A. It was several offenders.	8 A. Yes, I do have it in my file.
9	Q. And were they asking for something?	9 Q. Okay. I would ask that that be produced. Any
10	A. No, they were talking about riot for not eating	10 problem? Let me know if there's a problem.
11	chow, going to sit down stuff like that, officers were going	11 MS. MAUGHAN: I think it would be best if you want
12	to get hurt.	12 to make a document production request just do it all at once.
13	Q. Don't riot?	13 804.708.0025 want to rely on my notes.
14	A. Yes.	14 Q. So when you saw Mr. Rowe's name there, did it stand
15	Q. And was there any connection to Mr. Rowe with that	15 out in any way as compared to other approximately 40?
16	petition?	16 A. Not until he started sending blogs out, and it was
17	A. I can't recall if he signed it. I can't recall if	17 brought to our attention that they had seen Mr. Rowe's blog
18	he was involved in that riot or not within that time frame.	18 on the internet.
19	Q. Was there ever a riot?	19 Q. Prisoners are allowed access to the internet at
20	A. No, it was not a riot, to set up a riot.	20 Sussex 2, are they not?
21	Q. I thought you said there was -- the thing was not to	21 A. No, they're not.
22	riot?	22 Q. They're not allowed on the internet?
23	A. They was trying to set up a riot for not to go to	23 A. No, they're not.
24	chow to eat. It was like a petition going around.	24 Q. Are they allowed a JPay?
25	Q. Okay. My question was how did you become aware of	25 A. Yes, sir.

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1	Q. Isn't JPay connected to the internet?	1	A. No. She just said it was very interesting, that she
2	A. No, it's connected to a kiosk machine.	2	needs to go up there and read it.
3	Q. How does JPay communicate with somebody outside the	3	Q. Did she say why?
4	institution?	4	A. She did not say why.
5	A. They connect their JP5 player to the kiosk and	5	Q. When someone comes to your office and says I think
6	transfer. It's not internet access for them to actually just	6	it's interesting, you should read it --
7	sit there and go on the internet and pull up anything.	7	A. She did not come to me. She told my intel officer.
8	Q. Right. But they can communicate with others through	8	So whether they discussed it or not I have no answer for
9	the Internet? That's an Internet connection, is it not?	9	that.
10	A. Yes, it is an internet connection, but I thought you	10	Q. Okay. So do you give any instructions to your intel
11	meant something for computer internet access.	11	officers?
12	Q. It's only good for e-mails?	12	A. Yes, I do.
13	A. Correct. <small>UHURU ROWE v. 3:18 HAROLD C. CLARKE CARPENTER, LT. on 05/31/2019</small>	13	Q. About when they should investigate things and when
14	Q. And who has access to that operation, the JPay, any	14	not?
15	prisoner?	15	A. Yes. And when she got the information she called
16	A. Yes, as long as they have a JP 5 player.	16	Ms. Brickhead, which is the operational manager, she's up
17	Q. Meaning that they bought one?	17	under Warden, and she conducts further supervises the mail
18	A. Yes, so they can get up there now and actually just	18	room, like incoming and outgoing mail. And she contacted her
19	type if they don't have one.	19	and let her know the information she had just received.
20	Q. Now, you became aware you said of certain blogs?	20	Q. From?
21	A. Yes, sir.	21	A. From Ms. Ryan.
22	Q. How did you become aware of them?	22	Q. So Ms. Brickhead also received information from Ms.
23	A. It was brought to our attention by Ms. Ryan.	23	Ryan?
24	Q. Who's Ms. Ryan?	24	A. No, Ms. Brickhead received information from my intel
25	A. She was a teacher that teaches commercial arts I	25	officer.
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1	want to say at Sussex 2 State Prison.	1	Q. And what did Ms. Brickhead say in response to
2	Q. And she told you something?	2	that?
3	A. She came to my intel officer and was telling my	3	A. Once they read the blog and then sent the JPay
4	intel officer about the blog that was going through the	4	e-mail out, Ms. Brickhead instructed my intel officer to send
5	Internet.	5	it to censor.
6	Q. What did she tell her?	6	Q. So say after they read the blog?
7	A. She told her that she believed Mr. Rowe had a blog	7	A. Yes.
8	page going that she needed to go up there and check it out	8	Q. How did you get access to the blog?
9	and looked at it.	9	A. We have internet access, sir.
10	Q. She as the art teacher?	10	Q. So you had the URL address for the website?
11	A. The commercial art told my intel officer that she	11	A. Yes.
12	needs to check Offender Rowe's blog that he had on the	12	Q. And you typed that?
13	Internet, and she gave her the website to where the blog is.	13	Yes.
14	posted on.	14	Q. And who was present at that time, you were?
15	Q. Do you know what Ms. Ryan's interest was in this	15	A. Ms. Ryan and my intel officer.
16	matter?	16	Q. Does Ms. Ryan have anything to do with intelligence
17	A. She was looking up something for her class.	17	at the prison?
18	Q. And what did she say?	18	A. No, she does not, but if it's something dealing with
19	A. She ran across Offender Rowe's information on the	19	the stuff that was inside of the content dealing with the
20	blog that she was actually on.	20	prison she brought it to our attention.
21	Q. Did she tell your intel officer anything about the	21	Q. Is she allowed to see E-mails that are sent out by
22	content of those blogs?	22	prisoners?
23	A. Did I tell?	23	A. No, she's not. She didn't know anything about him
24	Q. Did Miss Ryan tell your intel officer anything about	24	sending out JPay e-mails.
25	the content of those blogs?	25	Q. So all she knew was that he had a blog?

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1	A. That he had a blog, and she brought it to our	1	on them we're allowed to receive that mail also. Once we've
2	attention. And when he sent the JPays out, that's when we	2	read the mail going out, the mail is sent out through the
3	was instructed to stop and send those to censor.	3	mail.
4	Q. Was there any concern in your mind about the fact	4	Q. Okay.
5	that he had a blog?	5	A. Mail that's coming in once we've read it, mail goes
6	A. Was there in anything what?	6	directly to the offender at night --
7	Q. Concern in your mind about Mr. Rowe having a blog?	7	(Court reporter asks witness to repeat response).
8	A. No.	8	A. The mail is coming in, mail is coming in and we have
9	Q. Well, then why are we looking at this?	9	a mail cover on the offender, we will read that mail. Once
10	A. I wasn't looking at it, it was brought to our	10	we have read and everything is fine with the letter, it's
11	attention about the blog. Our concern was the JPays that	11	sent in to the offender for night time mail to be passed out.
12	were being sent out. The blogs, no, but the JPays that were	12	Daytime mail is sent to the mail room, we read the mail.
13	being sent out, yes, we were <del>censoring</del> reading some of them.	13	Once we're fine with the content, if it's something we need to
14	Q. Did you read any of them?	14	hold we make a copy of it. Once we make a copy of it it's
15	A. The JPays?	15	sent back to United Postal Service. We do not hold the
16	Yes, I did.	16	offender's mail.
17	Q. How do you do that mechanically?	17	Q. So can you read every E-mail that's sent out through
18	A. I log onto JPay from my facility.	18	JPay?
19	Q. And?	19	A. Can we read every last one? Yes we can read every
20	A. The list comes up where everyone's sending out	20	last one of them.
21	JPays, and we go through each one of them and read them. We	21	Q. There's no standard for when you get to read?
22	have certain ones that we select and read, and the ones we	22	A. What do you mean no standard?
23	read and send them on.	23	Q. Is there any -- you can read any E-mail that's sent
24	Q. On a regular basis?	24	out through JPay?
25	A. Regular basis.	25	A. Correct.
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1	Q. And are those kept in a storage unit in the JPay?	1	Q. You don't need any suspicion anything?
2	A. Yes, it's sent to, it goes to security then it goes	2	A. No, sir.
3	to censor.	3	Q. But you are familiar with 803.1, are you not?
4	Q. So you could get -- one could get that from it now,	4	A. Correct.
5	years past?	5	Q. And are you familiar with this provision, "Outgoing
6	A. Yes.	6	mail should not generally be searched unless there is a
7	Q. Things that have been censored you can get access	7	reason for suspicion"?
8	to?	8	A. Correct. That's why I say you have to have a mail
9	A. Yes.	9	cover for mail being sent out. You have reasonable
10	Q. Now, I take it you're familiar with the operating	10	suspicions they'll have mail covers placed on the offender's
11	procedure 803.1?	11	mail and it's been held for me to go through with permission
12	A. Yes, sir.	12	for his mail to be read, anything suspicious.
13	Q. Titled "Offender Correspondence"?	13	804.708.0025 You said you could read the E-mail of anybody in the
14	A. Correct.	14	VA 23218-1644 institution. Is everyone suspicious?
15	Q. Now, is there a distinction in your mind or you've	15	A. E-mail is Jpay.
16	been trained between letters going out by prisoners and	16	Q. Right.
17	letters coming in from people on the outside?	17	A. Correct.
18	A. Correct.	18	Q. Is everybody suspicious?
19	Q. And what distinction do you draw as an intelligence	19	A. No, it's not suspicious, but JPay and regular mail
20	officer?	20	is totally different.
21	A. What do I draw from it?	21	Q. So JPay you can read whatever you want, but regular
22	Q. Yes.	22	mail you can't?
23	A. Mail that's going out we're allowed to read mail	23	A. No, sir. JPay is just like regular mail going out.
24	that's going out to be suspicious as long as we have a mail	24	Mail that's going out through the institutional mail, as long
25	cover on them. Mail that's coming in if we have mail covered	25	as I have that letter stating that I can hold that mail and

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1	search that mail at any given time, I have reasonable	1	need to do a mail cover to give us permission to keep track
2	suspicion to read that mail. All the JPays you can't read	2	of his JPays and giving us permission to read his incoming
3	them, but if I go and have one that I have mail covers on or	3	and outgoing mail.
4	have reasonable suspicions of, those are the ones that are	4	Q. I'm a little confused. You said before you don't
5	being read.	5	care if he has a blog, correct?
6	Q. So you get a letter from whom?	6	A. Correct.
7	A. It's a letter from that we have for mail cover. It	7	The blog didn't have any anything to do with the
8	has to be signed and approved.	8	JPay. JPay is -- the blog is totally internet. JPay is an
9	Q. By who?	9	E-mail. That's not a blog. It's a JPay e-mail going out. A
10	A. The Warden.	10	blog is where he sends it to someone else, just like a
11	Q. And what is he approving?	11	letter.
12	A. He's approving me to hold incoming and outgoing for	12	Q. Let's start off over.
13	reasonable suspicions like offender investigations.	13	A. Okay.
14	Q. For specific prisoners?	14	Q. Why were you suspicious of Mr. Rowe?
15	A. Correct.	15	A. Why I was suspicious of Mr. Rowe from the
16	Q. How often does he give it to you?	16	information that my intel officer received from Mrs. Ryan.
17	A. Whenever I fill it out and take it to him to have it	17	Q. Which was?
18	signed. See, when I take it to him --	18	A. Which was a blog letter that he had been sending out
19	(Court reporter asks witness to slow down)	19	putting on his blog page. Letter that he was being sent
20	MS. MAUGHAN: Take a breath and slow down.	20	out.
21	A. I fill out the form with Offender Rowe, and I have	21	Q. Without knowing the content?
22	pending -- conducting investigation. Once I do that I send	22	A. I didn't know the content. So once we learned about
23	it up front, put it in the Warden's box, wait for him to sign	23	Mr. Rowe having this blog, that's when I instructed my intel
24	it. Once he's signed off on it the mail room gets a copy and	24	officer who was going to put a mail cover on Mr. Rowe's
25	I get a copy.	25	outgoing and incoming mail.
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1	Q. And what, with that armed with that letter?	1	Q. And the only reason that was done was because you
2	A. That gives me permission to read incoming and	2	learned that he had a blog?
3	outgoing mail.	3	A. Correct, and the information that was pertaining on
4	Q. E-mail?	4	the blog, the information that was on the blog like the
5	A. Outgoing and incoming mail regardless of what kind	5	letters pertaining to different things that was going on in
6	of mail it is, it's incoming or outgoing I have permission to	6	the blog. That's where we stepped in. And then she started
7	read it.	7	reading the JPays, and some had been sent to censors because
8	Q. Okay. But is there permission to read outgoing	8	of the content that was inside of the JPay E-mail.
9	E-mails subject to that list of suspicious persons?	9	Q. What content?
10	A. Yes, it is.	10	A. He's naming people, talking about deaths, Johnny
11	Q. So you can look at every JPay?	11	Trane's death, and he's just naming staff at the institution
12	A. I can look at every, but I'm not sitting there	12	which I thought was critical because we're here for public
13	reading every JPay. If I have reasonable suspicion of a	13	offender safety, and he's putting that on a blog.
14	offender I have my paperwork stating giving me permission to	14	You never know you walk out of an institution and that
15	read his incoming and outgoing mail.	15	person's family member or somebody standing out there waiting
16	Q. Okay. And did you do that with respect to	16	for you to assault and hurt you. You never know. By putting
17	Mr. Rowe?	17	that on a blog and everybody has the option to read anything
18	A. Yes, I did, sir.	18	on the internet as long as you have internet, and they come
19	Q. And can you tell me why?	19	there looking for a Mr. Mills, and because of Johnny Trane's
20	A. Because I had ongoing investigation on him from the	20	death he's putting his life in critical condition -- I mean
21	blog and the information that my intel officer received from	21	in harm's way.
22	Ms. Ryan.	22	Q. How many people at the Sussex II have blogs? How
23	Q. What was that information?	23	many prisoners?
24	A. That he had a blog, and then when she started	24	A. I have no knowledge, sir. I know Mr. Rowe had one
25	reading his JPays about the JPays, that's when I told her she	25	when he was there at Sussex 2 State Prison.

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1 Q. Do you know anybody else who had a blog?		1 outgoing and incoming mail as long as I have permission to
2 A. No, sir, I do not.		2 sign.
3 Q. Did you check?		3 Q. Yes or no, the Warden does not know what suspicion
4 A. No, sir, I did not.		4 you have when you ask for that cover letter. Is that
5 Q. Because?		5 correct?
6 A. Because I was onto the one for --		6 A. Correct.
7 Q. So you looked at the content of the blog?		7 Q. And when the Warden authorizes you, he doesn't know
8 A. Correct.		8 why you want to do this, does he, except investigation? He
9 Q. You didn't yet have a letter from Warden, did you?		9 doesn't know anything about the underlying reason for your
10 A. That was on the internet that I looked at. I didn't		10 investigation?
11 have to have a letter from the internet.		11 A. He was aware of this situation, sir.
12 Q. I understand.	UHURU ROWE v. 3:18 HAROLD C. CLARKE CARPENTER, LT. on 05/31/2019	12 Q. How was he aware of it?
13 A. Correct.		13 A. Through my intel officer Ms. Brickhead. Ms.
14 Q. So let's start again. You looked, you found out he		14 Brickhead was the operational manager. My intel officer
15 had a blog?		15 passed the information down to Ms. Brickhead.
16 A. Correct.		16 Q. Information is not helpful to me. Ms. Ryan passed
17 Q. You looked on that blog?		17 what to Ms. Brickhead?
18 A. Uh-huh.		18 A. Ms. Ryan passed the blog information --
19 Q. You read some of the content?		19 Q. The fact that there was a blog --
20 A. Yes.		20 A. Correct.
21 Q. You didn't yet have a letter from the Warden?		21 MS. MAUGHAN: Can you please let her finish?
22 A. No.		22 MR. FOGEL: I'm having trouble getting answers.
23 Q. Allowing you to review his JPay, his --		23 MS. MAUGHAN: I'm going to object a little bit to
24 A. Correct.		24 your tone. I think if your tone was a little bit more polite
25 Q. So you then, armed with the information that he had		25 Ms. Carpenter could answer the questions. Just slow it down
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1 a blog and the content of what you saw on that blog, you went		1 a little bit, I think that would help everything.
2 to the Warden and asked for a cover letter?		2 MR. FOGEL: Let's try.
3 A. I explained to him the information that we received		3 Q. Did she give him any other information other than
4 and I asked him --		4 the fact that there was a blog?
5 Q. Well, you telling me I told him about information --		5 A. No.
6 A. Yes.		6 Q. And that's what Mr. -- what the Warden knew was that
7 Q. -- it's meaningless to me. I need to know what		7 there was a blog?
8 information you told him.		8 A. It was about the blog. And once we learned about
9 A. Okay.		9 the blog we went to the JPays, and that's when we started
10 Q. So what did you tell him?		10 finding information about the JPays.
11 A. I told him I had a mail cover letter that I need to		11 Q. When you say about the blog, do you mean about the
12 sign that I was putting a mail cover on Offender Rowe.		12 existence of the blog?
13 Q. You don't have to tell him why?	Halasz Reporting & Video PO Box 1644 Richmond, VA 23218-1644	13 804.708.0025 Correct.
14 A. I had conducting investigation.		14 Q. Not about the substance of the blog?
15 Q. You don't have to tell him why?		15 A. Correct.
16 A. No, I did not.		16 Q. So once you knew about the blog, you say you went to
17 Q. You don't tell him why? He signs a letter		17 look at some of the JPay E-mails?
18 authorizing you to look at suspicious E-mails but you don't		18 A. Correct.
19 told him why you want to look at them?		19 Q. But not until you had that cover letter, correct,
20 A. If I'm conducting an investigation, once I got all		20 from the Warden?
21 my findings then I pass the information down to my Warden.		21 A. Correct.
22 Q. So the Warden gives you permission to review E-mails		22 Q. The Warden knew that there was a blog?
23 without knowing why you want to review these E-mails, is that		23 A. Correct.
24 correct?		24 Q. Did he know anything else?
25 A. Correct. I have reasonable suspicions to read any		25 A. Not at the time, no.

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1	Q. And as a normal matter you don't even tell him what	1	Q. Do you know who that was and what E-mails they
2	prompts your investigation, is that correct?	2	read?
3	A. Yes, I do tell him, yes.	3	A. No, I do not know which E-mails they read.
4	Q. Okay. But you didn't in this instance?	4	Q. Do you know which E-mails you read?
5	A. Yes.	5	A. No, sir.
6	Q. You did tell him?	6	Q. Do you take notes when you're reading these
7	A. Yes.	7	E-mails?
8	Q. What did you tell him?	8	A. No, sir.
9	A. I learned that Mr. Rowe had the blog and I needed to	9	Q. Did you pick out an E-mail to send to -- I think you
10	put a mail cover on him to gain more information.	10	said if there's a problem you send it to security?
11	Q. Is that all you told him?	11	A. Send it to security, correct.
12	A. Yes, until I started getting the JPay E-mails, and	12	Q. Did you pick out any that you thought were a
13	once the JPay E-mails were <sup>UHURU ROWE v. 3:18 HAROLD C. CLARKE</sup> provided to us then that's when	13	problem?
14	they had my intel officer starts to censor.	14	A. Yes, sir.
15	Q. You went in to look at the JPay E-mails after you	15	Q. And can you tell us as best as you can recall what
16	got the cover letter from the Warden?	16	the content was and why it was that you sent that particular
17	A. Correct.	17	essay to security?
18	Q. And the Warden at that time was?	18	A. I can't recall what date it was, but in one of those
19	A. Mr. Ray.	19	JPay it was talking about staff.
20	Q. Do you recall approximately how soon after you spoke	20	Q. Do you mean the names?
21	to the Warden that you looked at these JPay E-mails?	21	A. Yes.
22	A. No, I don't recall.	22	Q. All right.
23	Q. Couple of weeks?	23	A. Inside of content it had the staff names and talking
24	A. About two or three days.	24	about offender's death, which was Johnny Trane I had spoke
25	Q. Okay. And how many, do you recall how many you	25	about earlier.
	Page 27		Page 29
1	found?	1	Q. Anything else?
2	A. No, sir.	2	A. And due to the content in the letter with the JPay
3	Q. Okay. You read through them?	3	E-mail it was like putting staff and offenders' life in
4	A. Yes.	4	jeopardy because you're naming these people and they have no
5	Q. All of them?	5	idea that this is actually being sent out. They can go out
6	A. No, I didn't go through all of them.	6	into society and something happens, and it was like it's not
7	Q. You went through -- how did you choose which ones to	7	a threat, but it was like harmful to them in harm's way for
8	go through?	8	being out in the community.
9	A. Because my intel officer had access, so all of us in	9	Q. Have you run into that problem?
10	the unit, whichever ones we get to that's how we just go	10	A. What problem before, sir?
11	through and do them. We do different ones every day.	11	Q. Of prisoners sending out mail or E-mails that have
12	Q. You did -- you picked out some to read?	12	the name of particular staff people in them?
13	A. Okay, this is how it is. When you have <sup>Halasz Reporting &amp; Video</sup> <sub>PO Box 1644 Richmond, VA 23218-1644</sub> access to the JPay because it's in the intel department.	13	Yes, I have ran into it, but if it's not critical,
14	I might not be there today. My intel officer might be there	14	If I don't think it's critical then I don't send it. If I
15	today, so they will read the E-mail. So they feel like this	15	think it's critical then I do not send it out. And the
16	needs to be sent to security, then it's sent over to	16	E-mail that was being sent out I think was critical to staff
17	security. And then it's sent over to censor and that's where	17	and the offender's family because they could have got wind of
18	it stays at, in censor.	18	it and found out who Mr. Mills, where he lived at and do harm
19	Q. I'm still confused.	19	to him in the community.
20	Did you read E-mails that were sent by Mr. Rowe?	20	Q. How do you distinguish that particular communication
21	A. Yes, I have some of them.	21	with the name of the staff member with the communications
22	Q. Are you saying that one of your -- one of the people	22	that had staff member's names that you didn't censor or that
23	who works for you also read E-mails?	23	you didn't think was a problem?
24	A. Yes.	24	A. The ones that were censored had staff names in them.
25		25	I thought it had critical information that I thought would

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1	being putting staff into harm's way.	1 that all day. I don't see that being critical, but as far as
2	Q. Have you seen any other communications by prisoners	2 naming staff and what they did and what could have been
3	either through E-mail or through letters which contain the	3 prevented, that's putting a staff member's life in jeopardy
4	names of staff members in them?	4 by being out in the community.
5	A. It depends on how they send it. If Joe Blow said	5 MS. MAUGHAN: And when we say critical of someone,
6	the beans won't good, no.	6 we can be critical of that something happened, the beans were
7	Q. Have you ever seen --	7 bad, the food is not good, that is a criticism. But in your
8	A. Yes.	8 understanding --
9	Q. Okay. That's all I asked. And what distinguishes	9 A. It's critical, right.
10	those from the ones that you saw on the E-mails of Mr.	10 Q. Did you note anything in those JPay E-mails that
11	Rowe?	11 were critical of the institution of Sussex 2 Prison?
12	A. The ones of Mr. Rowe the way I took it was critical	12 A. Some of the JPays, correct.
13	to staff and to the community. <sup>UHURU ROWE v. 3:18 HAROLD C. CLARKE CARPENTER, LT. on 05/31/2019</sup>	13 Q. How about the one we're talking about?
14	Q. Okay.	14 A. Correct.
15	A. The other ones they were not critical. They were,	15 Q. Okay. Did that add to your concerns?
16	they could talk about how the food was good or whatever, Joe	16 A. Yes, it did.
17	Blow didn't come to work or whatever. But critical	17 Q. How so?
18	information as far as Mr. Mills and Offender Trane I thought	18 A. Once again because it was critical.
19	this was very critical to the community.	19 Q. Of the institution?
20	Q. So your only concern was the criticism of that	20 MS. MAUGHAN: I think again --
21	particular staff person?	21 MR. FOGEL: No, no, stop. I know you don't like
22	A. No, it was more than one staff person. I don't	22 what she said, but you're going to have to live with it
23	recall how many more JPays there were, sir.	23 because that's what she said and that's the truth. So
24	Q. In that particular JPay, was only one staff person's	24 you can't just jump in because you didn't like what your
25	name?	25 client said.
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1	A. I can't remember how many more people was in	1 MS. MAUGHAN: I think there's a miscommunication
2	there.	2 between your use of the word critical and hers.
3	Q. You also mentioned he was critical of things going	3 MR. FOGEL: Well, you can do it on redirect, you
4	on at Sussex 2.	4 know that.
5	MS. MAUGHAN: Objection to the characterization of	5 Q. Let's try to straighten this out. Was there
6	that testimony. It's not that Ms. Carpenter testified that	6 anything in that JPay E-mail that you read that concerned you
7	the E-mails were critical of someone, it's that they were	7 that included information that was critical of Sussex II as
8	critical more in the context of critical importance is to	8 an institution, not as to the individuals that you've
9	what I understand she testified, given the content and --	9 mentioned?
10	MR. FOGEL: And your objection is?	10 A. No.
11	MS. MAUGHAN: To the characterization -- to your	11 Q. Nothing that was -- was there anything in there that
12	characterization of her testimony in asking her about what	12 was critical of the institution?
13	she found critical.	13 804.708.0025 Yes.
14	Q. Did you find anything in those letters that were	14 Q. And that didn't bother you?
15	critical of the institution itself?	15 A. Yes.
16	A. To the institution itself?	16 Q. It did bother you?
17	Q. Yes.	17 A. Yes, it did.
18	A. No, but it was critical to Mr. Mills and Offender	18 Q. Why did it bother you?
19	Trane's death part, yes, for Mr. Trane's death, because it's	19 A. It bothered me due to the fact that it was naming
20	not what you hear.	20 people.
21	MS. MAUGHAN: Let's clarify critical to and critical	21 Q. Why did the criticism of the institution bother
22	of. What do you mean when you say critical to?	22 you?
23	A. It's harm to Mr. Mills and whoever else was inside	23 A. Because we're here for protection of --
24	of that JPay e-mail. I can't recall who else was inside of	24 Q. So --
25	it. But the offender's death part that's -- they talk about	25 A. We're here for protection of staff and offenders,

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1 and the stuff bothered me because of the fact that it was 2 naming people that really shouldn't have to go out here and 3 deal with it like that.  4 Q. It appears you don't want to answer my question, but 5 I will take it that since you don't want to answer it it's 6 because you felt uncomfortable with the answer.  7 A. Okay.  8 Q. But you have already told us that you were concerned 9 about Mr. Rowe's criticism of the institution as well as the 10 mention of the two names in that body, in the body of that 11 JPay, correct?  12 A. Correct.  13 Q. Okay. Then did you go to the Warden with that 14 information?  15 A. I cannot recall when I went to him.  16 Q. When did you go to security with that information?  17 A. What do you mean security?  18 Q. Well, you say that if there was a concern about an 19 outgoing mail or E-mail you would give it to security. Isn't 20 that what you said?  21 A. My intel, we are security.  22 Q. Okay. There's no separate institution called 23 security?  24 A. No other security who I give it to.  25 Q. So when you said security before, if you said it,	1 Q. So their security? 2 A. To their security for JPay. From Jay we send to 3 security to their censor.  4 Q. Now I understand. Security you were referring to 5 refers to the security of the JPay?  6 A. Correct.  7 Q. Did you do anything else? 8 A. No, sir.  9 Q. Did you confront Mr. Rowe? 10 A. I believe I did interview Mr. Rowe twice.  11 Q. How soon after you had censored or arranged to 12 censor that, how many E-mails do you recall that you 13 censored?  14 A. I can't recall how many I censored, sir.  15 Q. And how long after that did you speak to Mr. Rowe? 16 Do you recall approximately?  17 A. I can't recall.  18 Q. Okay. Do you remember recommending Mr. Rowe to be 19 in administrative segregation?  20 A. No, I did not.  21 Q. You never did?  22 A. No, I did not.  23 Q. Were you aware that he had been in administrative 24 segregation?  25 A. Yes, I had.
Page 35	Page 37
1 you meant yourself? 2 A. Correct.  3 Q. In the future when you mean yourself could you just 4 say yourself instead of someone that seems like a third party 5 or separate institution?  6 A. Uh-huh.  7 Q. You went to the Warden to get permission to review 8 those JPays?  9 A. Any incoming or outgoing mail.  10 Q. Right. And at that juncture you hadn't read any of 11 the mail, just the blogs?  12 A. Correct.  13 Q. So you went in and read the mail, and you found some 14 that you thought were problematic, is that correct?  15 A. Correct.  16 Q. What did you do with them? 17 A. They sent them to censor.  18 Q. Pardon me? 19 A. They were sent to security, then they go to 20 censor.  21 Q. Security is you? 22 A. No, JPay, you either approve it, you approve it or 23 you send it to security. Send it to security is a like a web 24 thing that they have on for JPay where they send it to 25 security.	1 Q. Do you know why? 2 A. It was due to the Pughsley. 3 Q. Petition? 4 A. -- petition, correct. 5 Q. What about it? 6 A. What do you mean what about it? 7 Q. You said it was due to the petition. What aspect of 8 the petition led to him being put in -- 9 A. The information that we received that Pughsley and 10 Mr. Rowe was going around with a petition trying to have 11 other offenders sign it. They were sent over to Sussex 1 to 12 confinement, which is RHU, until further investigation was 13 804.708.0025 14 13 PO Box 1644 Richmond VA 23218-1644 15 Q. Were you involved in that at all? 16 A. Involved in? 17 Q. In investigation, in the prosecution, any of that? 18 A. Yes, I was. 19 Q. What was your role? 20 A. Once we gained the information and got the 21 information from Offender Pughsley and we searched Mr. Rowe's 22 property, I don't recall getting anything out of Mr. Rowe's 23 property. When I went over there and explained to him that 24 he would be coming back to Sussex II, then he was not 25 institutional charged if I'm not -- I don't think he was institutional charged.

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1	Q. And that was all your involvement?	1	the names of a staff member in connection with the death of
2	A. Yes.	2	somebody?
3	Q. Okay. You were sitting here through Mr. Rowe's	3	A. I sent it to security.
4	testimony. I assume you were listening, correct?	4	Q. All right. And then did you speak to Ms. Brickhead
5	A. Yes.	5	about it?
6	Q. You heard Mr. Rowe testify there were instances	6	A. Yes, I printed it out.
7	where it appeared that his E-mails had been delayed for	7	Q. Before you sent it to security, right?
8	several weeks?	8	A. I put -- I sent it to security so I can go back into
9	A. Correct.	9	it. It would never go no where as long as I had it there.
10	Q. Are you aware of any such E-mails being delayed?	10	Q. And you can retrieve it back from security?
11	A. Yes, I have.	11	A. I can go back and retrieve it from security. So
12	Q. Okay.	12	once I go there and sent to security, I pulled it back and
13	A. We don't -- we try <del>to censor them every day.</del> UHURU ROWE v. 3:18 HAROLD C. CLARKE	13	sent it to Brickhead and printed off and let her know what I
14	Sometimes we don't get a chance to read them every day. So	14	have. And she was like she would give me permission to
15	the ones that we do have mail cover on and to go back to do	15	either send it or send it to censor.
16	once we have a chance we try to get them sent out as soon as	16	Q. And she did in this instance?
17	possible within 24 to 72 hours. Sometimes our schedule gets	17	A. Correct.
18	thrown back dealing with another problem in the institution.	18	Q. Did she share with you what her concerns were about
19	As soon as we get to them we try to send them straight out.	19	the JPay that you brought to her?
20	Q. So there will been instances in which a JPay e-mail	20	A. No, she started off with my intel officer when they
21	was sent out, you have printed it out but haven't acted on it	21	first started off with the JPays, and she instructed them to
22	yet, correct?	22	send the ones like that straight to --
23	A. No.	23	Q. Security?
24	Q. Because you haven't had a chance to read it?	24	A. -- security, yeah, it goes to security, then it go
25	A. No, it would not just sit there until we actually	25	up to censor.
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1	open it up and approve it to be sent or sent to security.	1	Q. Now, you have read lots of Mr. Rowe's E-mails I take
2	Q. Okay. And that would be the explanation at least	2	it?
3	for some delays at some times?	3	A. Yes.
4	A. Correct.	4	Q. Did you ever see another E-mail where he mentioned
5	Q. When you looked at the E-mails that you censored, or	5	the name of a staff member?
6	you understand what I mean you censored, did you converse	6	A. Yes.
7	with anybody about whether they should be censored?	7	Q. And did you censor every one of those?
8	A. We spoke with Ms. Brickhead, which was the	8	A. I can't recall if I did or if I didn't.
9	operations manager, and that's why they were sent to	9	Q. You might not have?
10	censored.	10	A. I might have, but I can't recall if I did, if I
11	Q. Because Ms. Brickhead said to do so?	11	didn't.
12	A. She was the operational manager and she's over Top	12	Q. So you might not have?
13	of the mail room that's like outgoing mail, and <small>Halasz Reporting &amp; Video</small> <small>PO Box 1644 Richmond VA 23218-1644</small> she was like	13	I might not have, but I can't recall.
14	advised of the information and everything and she was like	14	Q. Can you tell me the circumstances where you wouldn't
15	they cannot go out. So she gave us permission not to send	15	censor it even though it had the name of a staff member in
16	that JPay E-mail out.	16	it?
17	Q. You don't have the authority on your own?	17	A. I wouldn't censor it if he just saying something
18	A. Do I have the authority? I have a boss too, but	18	general about a staff member. But something critical I would
19	that's who I follow up. If I feel like they need to go, then	19	send to security until further notice.
20	I'll tell them what I have and they'll give me permission to	20	Q. Can you explain what you mean by critical?
21	send it or not send it.	21	A. Critical would be harm's way, assaulted, threats,
22	Q. They being?	22	anything like that I would send it to security. Anything
23	A. Ms. Brickhead and above.	23	else I would just send it to -- I print it off and just sent
24	Q. Okay. Let's talk about Mr. Rowe. When you looked	24	it off.
25	at it you thought there was a concern because he mentioned	25	Q. There were no threats in this E-mail, were there?

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1	A. In what E-mail?	1	Q. You had never seen it before that?
2	Q. The one we're talking about, the one that you	2	A. No.
3	censored. The first one you censored.	3	Q. So you don't know, as far as you know this had never
4	MS. MAUGHAN: If you're going to ask about a	4	been censored, the content of the document that you have in
5	specific E-mail we need to see the specific E-mail.	5	front of you?
6	A. I can't recall.	6	A. I don't know if it's been censored or not, but I saw
7	MR. FOGEL: That was marked as part of D1. Do we	7	the letter.
8	have D1 here?	8	Q. But if you knew it had been censored you wouldn't
9	MS. MAUGHAN: D1 was the complaint with the	9	allow this letter to go out, would you?
10	attachments.	10	A. Not me, no, sir.
11	You have got the complaint right in front of you.	11	Q. But you allowed this letter to go out?
12	Q. I'm going to show you what's attached to Defendant's	12	A. Correct.
13	Exhibit 1, which was the <sup>UHURU ROWE v. 3:18 HAROLD C. CLARKE</sup> Complaint. And it says on here A,	13	Q. So you didn't have any idea that it was censored?
14	but that's not for this purpose. Is that familiar to you?	14	A. Correct.
15	A. Yes.	15	Q. And you don't know as you sit here now who, if
16	Q. And is that one of the E-mails that you had	16	anyone, would have censored it?
17	censored?	17	A. No.
18	A. I can't say if I censored it or not.	18	Q. But there is a way to find out?
19	Q. Do you know what was censored? Do you know what you	19	A. Yes.
20	censored?	20	Q. Is it a marking on the security system that marks
21	A. I can't say if I censored it or not, because someone	21	who entered the request?
22	in my intel department could have censored it. I don't know	22	A. Yes.
23	which ones I have read, but I have seen it before.	23	Q. Okay. So you said you were concerned about the
24	Q. How would you know who did it?	24	names that were in this document, a document?
25	A. It would tell you.	25	A. Correct.
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1	Q. What would tell you?	1	Q. Was this the document that you were concerned about
2	A. I would have to go back and pull it up as to	2	the names?
3	actually who read it, but I have seen this before.	3	A. No.
4	Q. And you're saying you don't know whether or not you	4	Q. Sorry?
5	censored it or not?	5	A. No, sir.
6	MS. MAUGHAN: I'm going to object to the extent	6	Q. No?
7	you're talking about Exhibit A to Plaintiff's Complaint,	7	A. There was no names included in this document.
8	which is not an E-mail. SO we're talking about censoring	8	Q. Let me show you another document and ask you if you
9	E-mails, that's difference than this A, so I think it needs	9	have seen that before.
10	to be clarified what we're talking about.	10	A. Yes.
11	Q. It's already been gone through. But can you	11	Q. Have you seen it before?
12	identify the document you have in front of you?	12	A. Yes.
13	A. Yes, it's a letter.	13	Can you recall when and where?
14	Q. You have seen it before?	14	PO Box 1644 Richmond, VA 23218-1644 804.708.0025 A. On JPay if I'm not mistaken.
15	A. Handwritten.	15	Q. And you read it at that time?
16	Q. You have seen it before?	16	A. I can't say if I read it or not.
17	A. Yes, it went out through the mail.	17	Q. Do you know whether or not this document was
18	Q. Through the?	18	censored?
19	A. Regular mail, U.S. Postal mail.	19	A. Do I know if it was censored or not?
20	Q. And did you review it before it went out?	20	Q. Yes.
21	A. Yes, I did.	21	A. I can't recall.
22	Q. And you let it go out?	22	Q. But there is a way to find out?
23	A. Yes, I did.	23	A. Yes.
24	Q. Had you seen it before that?	24	Q. And I assume since you can't recall, you wouldn't
25	A. No.	25	know whether it was you or somebody else?

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1 A. Correct.	1 A. Correct.	1 Q. And only the Warden can get the final word, at least
2 Q. So we have the same issue on both of them. Okay.	2	3 at the institutional level. Is that correct?
3 Now just very quickly, you don't have the authority	4	4 A. (Nods head yes).
4 on your own to censor mail, do you?	5	5 Q. Is that yes?
5 A. No, I do not.	6	6 A. Correct.
6 Q. Just JPays, only with the cover letter from the	7	7 Q. Now, in response to at least one of the essays that
7 Warden?	8	8 Mr. Rowe claims was censored, you -- well, this is at
9 A. Correct.	9	9 Defendant's 3. You said inspection, I'm sorry, I shouldn't
10 Q. Now, does it get back to the Warden the specific	10	10 say you said. Do you see the signature there on the left on
11 items that you've censored? If you censor something, you	11	11 the bottom?
12 have had permission from the Warden to censor anything,	12	12 A. Yes.
13 you've told us that you often go talk to Ms. Brickhead about	13	13 Q. That is your signature?
14 whether to censor it?	14	14 A. Correct.
15 A. Uh-huh.	15	15 Q. Would You read that to us?
16 Q. Or is that always?	16	16 A. "Inspection of offender correspondence according to
17 A. No, it depends on the type incident that we're	17	17 operation procedures 803.1 correspondence is read, censored
18 dealing with, and she will advise us if we can censor it or	18	18 or rejected based on facility interest of order and
19 send it on.	19	19 security".
20 Q. And this instance with Ms. Rowe you spoke with Ms.	20	20 Q. You didn't explain to him that it had to do with him
21 Brickhead?	21	21 naming people in a situation where they could be at risk?
22 A. Correct.	22	22 A. No, I did not.
23 Q. And she was the one who could authorize that	23	23 Q. But that would have informed him for the future,
24 censorship at that time?	24	24 wouldn't it have?
25 A. Correct.	25	25 A. I mean the contents, he would receive something from
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1 A. Correct.	1	1 JPAY saying it was censored. So that's telling him it was
2 Q. Now, when an appeal is taken from a decision, for	2	2 violation of policy and procedure when he received the
3 example to censor something, who does it go to first?	3	3 notification back.
4 Informally it would go to you, wouldn't it?	4	4 Q. But he'll never find out what policy or procedure it
5 A. Say that again.	5	5 was if you don't tell him?
6 Q. The informal complaint would come to you about	6	6 A. I told him on correspondence 803.1.
7 Censorship of a JPAY e-mail?	7	7 Q. How many pages is 803.1? Can you count them?
8 A. Yes.	8	8 A. 21.
9 Q. And it would be your responsibility to respond?	9	9 Q. Okay. And are they single lines? They're not
10 A. Correct.	10	10 double spaced, they're single lines and they're both sides of
11 Q. And an appeal from that decision was -- well, not a	11	11 the page, aren't they?
12 decision, you're simply responding to the informal	12	12 A. Yes, sir.
13 complaint?	13	13 So it's a very simple matter to just do that?
14 A. Correct.	14	14 MS. MAUGHAN: Objection to form.
15 Q. And then do you understand the grievance	15	15 Q. To know that this is -- that the reason is why
16 procedure?	16	16 you're rejecting that correspondence?
17 A. Yes.	17	17 MS. MAUGHAN: Objection to form. That's not a
18 Q. And then the prisoner if they want to they can file	18	18 question.
19 a regular grievance?	19	19 Q. Are you obligated to tell prisoners why you're
20 A. Correct.	20	20 rejecting their correspondence?
21 Q. And that doesn't go to you?	21	21 A. Once their correspondence is rejected it goes back
22 A. Correct.	22	22 to the JPAY and informs them why it was rejected. They have
23 Q. That goes to the intake officer?	23	23 a dropdown list of violation policies and procedures, and
24 A. Yes.	24	24 it's sent back to their JPAY.
25 Q. And eventually it goes to the Warden?	25	25 MR. FOGL: Could you read back the question,

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1	please?	1	Q. Just very quickly, you may not search unless there's
2	THE COURT REPORTER: "Are you obligated to tell	2	a reason for suspicion?
3	prisoners why you're rejecting their correspondence?"	3	A. Correct.
4	A. Yes.	4	Q. Your reason for suspicion in this particular
5	Q. And in your opinion it suffices to say look at this	5	instance with Mr. Rowe was that your knowledge that he had a
6	21 page document, you'll find it there somewhere? Does that	6	blog?
7	fulfill your obligation?	7	A. Correct.
8	A. Yes, sir.	8	Q. And that was all you knew?
9	Q. It does? Okay. And that's what you always wrote	9	A. At the time.
10	when you responded?	10	Q. That led you to suspect that what he was sending out
11	A. Correct.	11	on JPay would somehow violate 803.1?
12	Q. That it was somehow a violation of something in OP	12	A. Correct.
13	803.1, correct? <small>UHURU ROWE v. 3:18 HAROLD C. CLARKE CARPENTER, LT. on 05/31/2019</small>	13	Q. I have no further questions.
14	A. Correct.	14	BY MS. MAUGHAN:
15	Q. Did you know what it was a violation of in 803.1?	15	Q. Ms. Carpenter, I believe you testified that you
16	A. Policies and procedure.	16	first became aware of Mr. Rowe's existence in March or
17	Q. What in particular? If you look at 21 pages.	17	February 2018. Does that sound right?
18	A. So do you want me to tell the page number?	18	A. Correct.
19	Q. I want to know the provision. I don't care about	19	Q. And explain to me again what your testimony was
20	the page number. What provision is it that you're relying to	20	about how you came to be aware of Mr. Rowe.
21	say everything was done based on that procedure?	21	A. Ms. Ryan, she came to my intel officer and explained
22	MS. MAUGHAN: I'm going to object to relevance of	22	to my intel officer that Mr. Rowe had a blog page going on
23	this line of inquiry. You can answer if you know.	23	and it was very interesting, for her to check it out. So she
24	A. It's on page 12 of 21, sir.	24	
25	Q. And the section is the one that's highlighted?	25	
	Page 51		Page 53
1	A. Yes, sir.	1	went on the blog page, she looked at it. When she advised me
2	Q. And It says "Outgoing mail should not generally be	2	of what she had read, I told her to get in contact with Ms.
3	searched unless there is a reason for suspicion", is that	3	Brickhead the operational manager and to find out where do we
4	correct?	4	need to start it from here. And that's when she gave us the
5	A. Correct.	5	instructions on where we can begin with doing the mail cover
6	Q. And your reason for suspicion was that Mr. Rowe had	6	and getting it signed.
7	a blog?	7	Q. And you mentioned that there was a petition and
8	A. Correct.	8	something about riots. Tell me more about that.
9	Q. And that was it?	9	A. We had a petition going around for to set a riot to
10	A. No, sir, and the JPays that was being sent out.	10	offenders going on a hunger strike, not to go to the dining
11	Q. But you didn't see the JPays?	11	hall. At the time that this petition was going around we
12	A. Correct.	12	couldn't tell if it is --
13	Q. So your suspicion in order to look at the JPays was	13	804.708.0025 (Court reporter asks witness to slow down)
14	that he had a blog? <small>Halasz Reporting &amp; Video PO Box 1644 Richmond, VA 23218-1644</small>	14	A. At the time this petition was going around we said
15	A. Correct.	15	had to take it into consider safety for offenders and staff
16	Q. And that was it?	16	being hurt, so that's when we stepped in. And that's when we
17	A. Correct.	17	learned about the riot and the petition.
18	Q. That's the circumstances is having a blog?	18	Q. Did you learn about the riot and the petition before
19	A. Blog.	19	you learned about Mr. Rowe's blog or after?
20	Q. Is having a blog is suspicious?	20	A. After if I can recall.
21	A. No, the blog is not suspicious, but he's doing a	21	Q. Okay. What was concerning to you about the petition
22	blog on the internet. He has to be sending it through the	22	and the riots? What did you guys know? What were you
23	mail some type way through JPay. So I have to have	23	thinking about?
24	permission to check his mail before it's being sent out.	24	A. We was thinking about offender safety and
25	How is he going to send the blog out?	25	everything, people not getting hurt, staff not getting

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<p>Page 54</p> <p>1 hurt.</p> <p>2 Q. So at the time you learned about the petition and 3 the possibility of a riot, were you concerned that there 4 would be a riot?</p> <p>5 A. I couldn't say it was going to be a riot or not, we 6 were just taking the precautions.</p> <p>7 Q. How did you learn about the issue with the riot?</p> <p>8 A. By an informant.</p> <p>9 Q. And was that informant an offender?</p> <p>10 A. Yes.</p> <p>11 Q. And what did that offender inform you?</p> <p>12 A. He informed me that there was going to be a riot and 13 that they was going to do a <del>strike</del><sup>uhuru rowe v. 3:18 harold c. clarke</sup> go to dining 14 hall, and he was afraid that staff and offenders were going 15 to end up getting hurt.</p> <p>16 Q. So he was telling you, he was reporting this in 17 order to stop the riot?</p> <p>18 A. Correct.</p> <p>19 Q. Was that around the same time that you guys found 20 out about the petition that we've talked about?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Did you believe there might have been a relationship 23 between the petition and the potential riot?</p> <p>24 A. Yes.</p> <p>25 Q. Why did you think that?</p>	<p>Page 56</p> <p>1 sorry. My brain is getting tired.</p> <p>2 Did your knowledge about the petition and your 3 concern about a riot go into the decision to stop any of 4 Mr. Rowe's E-mails from going out?</p> <p>5 A. No.</p> <p>6 Q. It did not?</p> <p>7 A. Say that again.</p> <p>8 Q. I'm sorry, maybe that was another bad question.</p> <p>9 Did your knowledge of the petition and the riot at 10 all affect your decision to stop Mr. Rowe's E-mails that went 11 out? Sorry, That's also a bad question.</p> <p>12 That's not what you testified to.</p> <p>13 At the time Mr. Rowe's E-mails were being censored, 14 did staff at the prison know about the riot and the petition 15 that were going around?</p> <p>16 A. Yes.</p> <p>17 Q. To the best of your knowledge, understanding that 18 you may not have been the person who censored these e-mails, 19 to the best of your knowledge did the knowledge about the 20 riot and the petition have an impact on the decision to stop 21 Mr. Rowe's E-mails?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. There was also a little bit of confusion I 24 think about the use of the words critical of and critical to 25 in your testimony that you gave earlier. You testified about</p>
<p>Page 55</p> <p>1 A. The petition was going around at the same time that 2 the riot, the reason why I think, is what you said? Can you 3 repeat that.</p> <p>4 MS. MAUGHAN: I've forgotten my question. Could you 5 read it?</p> <p>6 COURT REPORTER: "Did you believe there might have 7 been a relationship between the petition and the potential 8 riot?"</p> <p>9 A. Because offenders had signed the petition, the 10 petition was found with offenders signature and a state 11 number beside it.</p> <p>12 Q. And a state number was beside it?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. Okay. And those things were happening around the 15 same time, is that correct?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. And Mr. Rowe signed that petition?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. With 40 or 45 other people?</p> <p>20 A. Correct.</p> <p>21 Q. And those people being offenders?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Did your knowledge about the possible riot and the 24 petition inform at all your decision or the decision to delay 25 or review Mr. Rowe's E-mails? That was a bad question. I'm</p>	<p>Page 57</p> <p>1 things that you found critical, and you said critical to -- I 2 believe you were using the phrase critical to the 3 institution. What do you mean by the phrase critical to?</p> <p>4 A. Harm, threats, danger to.</p> <p>5 Q. So would it be fair to say that when you're thinking 6 that something might be critical to someone that is possibly 7 putting them in danger?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. If I say that I am critical of someone, does 10 that have a different meaning to you?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So if I say that I'm critical of trying not 13 to be political, if I'm critical of the President, of a 14 country that doesn't exactly exist, what does that mean to 15 you?</p> <p>16 A. Just critical of it, that you're just speaking 17 terms. It's not that you're making a threat toward it, 18 you're not putting it like in harm's way. You're not making 19 a threat directly towards something.</p> <p>20 Q. So if I say I don't like the president of this other 21 country?</p> <p>22 A. You're just making a statement.</p> <p>23 Q. So I'm being critical of that president?</p> <p>24 A. Correct.</p> <p>25 Q. And so there's a difference to you between being</p>

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1	critical of something and critical to?	1	MS. MAUGHAN: Mr. Fogel, do you have a copy of 803.1
2	A. Correct.	2	floating around somewhere?
3	Q. So in thinking about Mr. Rowe's e-mails that were	3	Q. Okay, I have a couple of question for your about
4	stopped or his JPay messages, were those messages concerning	4	803.1, and we only have one copy and we can look at it both
5	to you because they were critical to a person at the	5	at the same time. So in looking at OP 803.1 and looking at
6	facility?	6	page 19 of 20 on the document Mr. Fogel has provided, and
7	A. Yes.	7	this document as an effective date of October 1, 2017 and it
8	Q. Did you also think that his E-mails were critical of	8	says it was amended effective 4-1-18.
9	the facility?	9	So in section Roman numeral eight, it's entitled
10	A. Yes.	10	"Secure Messaging". Did I read that correctly?
11	Q. So can you give me an example of something that you	11	A. Yes.
12	recall Mr. Rowe complaining about in his e-mails that was	12	Q. Okay. And this part of secure, this secure
13	critical of the facility? <small>UHURU ROWE v. 3:18 HAROLD C. CLARKE CARPENTER, LT. on 05/31/2019</small>	13	messaging section of 803.1 is a separate section from the
14	A. When he talk about what medical, the water, food,	14	section that talks about offender postal mail, correct?
15	commissary.	15	A. Correct.
16	Q. Okay.	16	Q. Are JPay messages treated differently than offender
17	A. Just etc., things like that.	17	Postal mail?
18	Q. Do offenders frequently say things or write things	18	A. No.
19	that are critical of the facility where they're housed?	19	Q. And it says, looking now at page 20 of that same
20	A. Yes.	20	operating procedure Section E, can you read what Section E
21	Q. Is that a security concern to you?	21	says for me, please?
22	A. Not as major as critical to.	22	A. "All incoming outgoing messages will be screened and
23	Q. Okay. So let's move on to what might be critical to	23	must comply with the regulations governing written
24	in this situation. You mentioned an offender named Johnny	24	correspondence as provided in the operation procedure".
25	Trane, is that correct?	25	Q. When it says "all incoming and outgoing messages
	Page 59		Page 61
1	A. Correct.	1	will be screened," what does that mean?
2	Q. And Mr. Trane recently died?	2	A. All offenders E-mail, JPay E-mails are screened,
3	A. Correct.	3	incoming and outgoing.
4	Q. Based upon your recollection of Mr. Rowe's E-mail	4	Q. What does it mean to screen them?
5	about Mr. Trane, what was he saying about Mr. Trane?	5	A. You select, so I mean instead of just trying to do
6	A. He's saying Mr. Mills' -- his death could have been	6	everybody, you just do it selectively and just go through.
7	prevented due to unit manager Mr. Mills. That too is	7	If you have a target or you're looking at someone then you're
8	bringing Mr. Mills like he could have prevented death from	8	definitely going to read their JPay E-mails. So you just
9	happening or it shouldn't have happened. If that blog had	9	screen through all, I mean through the JPay e-mails, and if
10	got out or it got out, it could have put Mr. Mills' life in	10	they're approved to go out then they get approved and they've
11	danger. He was being critical, put into danger by he's	11	been sent out.
12	saying that Trane's death could have been prevented due to	12	Q. Under this particular provision of this OP, you have
13	Mr. Mills.	13	<small>Halasz Reporting &amp; Video PO Box 1644 Richmond, VA 23218-1644</small> mail cover or letter that you were talking about
14	Q. And so was your concern that Mr. Trane's family	14	earlier to screen JPay e-mails?
15	might read think it was true and somebody might try to hurt	15	A. No, for the outgoing mail for the regular United
16	Mr. Mills?	16	States Postal Mail I have that from the United States Postal
17	A. Yes, ma'am.	17	Mail.
18	Q. So that's what you mean by critical to?	18	Q. So is it your practice to get a mail cover letter
19	A. Yes, ma'am.	19	even if you're going to screen JPay messages also?
20	Q. And so being fair, that's also critical of	20	A. No, I does it for my regular mail.
21	Mr. Mills, right?	21	Q. Okay, but you don't --
22	A. Correct.	22	A. No, because Jpay if all of them just come straight
23	Q. You're familiar with OP 803.1, correct?	23	up on the screen.
24	Do offenders have access to 803.1?	24	Q. So the policy does not require you to get a mail
25	A. Yes.	25	cover letter for the JPay mail messages?

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1	A. No.	1 the incoming mail that's coming in from the mail room.
2	Q. I don't think I have any other questions right now.	2 Q. And the JPays?
3	MR. FOGEL: I have got a few.	3 A. I don't have to have anything because it's coming
4		4 from JPAY. They're sending it through to us.
5	BY MR. FOGEL:	5 Q. So you can read any JPAY e-mail?
6		6 A. Correct.
7	Q. Lieutenant, did you just say that you're authorized	7 Q. Without getting a cover letter?
8	to look at any JPAY messages sent out of the institution	8 A. Correct.
9	without any permission from anybody?	9 Q. From anybody?
10	A. Correct, but they're screening, you're screening,	10 A. Correct.
11	that's not that you're looking at every last one of them. If	11 Q. But in many instances you do get cover letters?
12	I have information that okay, Rowe, I need to put a mail	12 A. Correct.
13	cover on him because I'm receiving information that this is	13 Q. That gives you protection?
14	going on with him. I'm going to do a mail cover on him	14 A. Correct.
15	regardless to cover me for his incoming, outgoing and his	15 Q. And in this particular instance that we're talking
16	JPay. Because I haven't been reading Rowe's JPays because he	16 about here, you didn't get a cover letter, you first went to
17	never gave me a problem. But I have ones that I'm dealing	17 Ms. Brickhead and she authorize you to do it?
18	with that I have to check on this guy here, so sure I put a	18 A. Yes.
19	mail cover on him for his incoming, outgoing, and that will	19 Q. But you didn't need her authorization, did you?
20	cover his JPays also.	20 A. No.
21	Q. Why do you need a mail cover for the JPays?	21 Q. But you did it why?
22	A. For me that's what I does that.	22 A. We just started off really doing JPays and started
23	Q. So you're not making the decision about censorship,	23 screening everybody because I was by myself at the time, and
24	it's the Warden?	24 I was just doing selected ones that was coming up that I was
25	A. What do you mean making the decision for what?	25 actually doing investigation on.
	Page 63	Page 65
1	Q. You said to cover yourself, to protect yourself from	1 Q. Why did you do to Ms. Brickhead if you didn't need
2	what?	2 authority?
3	A. For JPAY? If I have -- like I said, if I am working	3 A. Because of the incident that occurred, the blog.
4	a case on him, I'm going to do a mail cover so when it comes	4 She was over top of the mail room. She was a supervisor for
5	back and says did you have a mail cover, I have proof that I	5 the mail room, incoming and outgoing mail, so that's why my
6	have a mail cover for checking your incoming and outgoing	6 intel officer went to her.
7	mail. That's considered to me is incoming and outgoing	7 Q. But you didn't know go to her --
8	mail.	8 A. My intel officer did not know that, that's why she
9	Q. But you don't need a cover in order to --	9 went to her to advise her what was going on.
10	A. That's incoming and outgoing mail.	10 Q. But you didn't need to go to her in order to read
11	Q. So you do need a cover?	11 the JPays?
12	A. Not really for JPays because I'm not screening every	12 A. No.
13	one.	13 Halasz Reporting & Video   804.708.0025 So she went to her anyway. And can you explain why, 14 Q. Are you authorized to screen anybody's JPAY PO Box 1644 Richmond, VA 23218-1644 15 A. Yes, I am authorized.
16	Q. -- E-mails without specific permission?	15 A. No, I do not know why she went there.
17	A. Yes.	16 Q. And but you have regularly gone and spoken to her
18	Q. Okay. And therefore you could do everyone's E-mail	17 and asked her opinion about censorship, have you not?
19	without permission, correct?	18 A. Asked who?
20	A. Correct.	19 Q. Ms. Brickhead. You asked her opinion other than
21	Q. Why do you get cover letters?	20 with Mr. Rowe about whether or not an item should be
22	A. Because incoming outgoing mail, if I'm going to be	21 censored?
23	opening up an investigation is going to ask me did I have	22 A. She just instructed my intel that if anything comes
24	permission for the incoming and outgoing mail, which is going	23 up with this blog or a petition -- I mean not the petition
25	to be outgoing mail that I need to get from the mail room and	24 thing, with the blog, you know, to censor all of them. So 25 that's when they censor and goes to security.

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1 Q. My question is have you, since Mr. Rowe's E-mail was	1 A. Yes, sir.	
2 censored, ever gone to Ms. Brickhead to ask her advice about	2 Q. And he goes through the Warden's decisions and	
3 whether to censor something?	3 grievances?	
4 A. Yes.	4 A. Correct.	
5 Q. Regularly?	5 Q. And he has authority to either uphold them?	
6 A. Yes.	6 A. Correct.	
7 Q. Okay, that's my question.	7 Q. Or to reverse them?	
8 Now, you say in response to questions from your	8 A. Correct.	
9 lawyer that the rumor you heard from a snitch?	9 Q. And same thing with headquarters, there's a further	
10 A. It's not a snitch, it's an informant.	10 appeal in some instances?	
11 Q. What's the difference?	11 A. Yes.	
12 A. We don't call them snitches, we call them	12 Q. And they have the authority to either uphold it,	
13 informants. <small>UHURU ROWE v. 3:18 HAROLD C. CLARKE CARPENTER, LT. on 05/31/2019</small>	13 or --	
14 Q. What's the difference?	14 A. Yes, sir.	
15 A. It's a difference for me. I call them informants --	15 Q. -- or to reject it? Okay.	
16 Q. You can call them anything You want and I can call	16 Did you ever talk to the Warden about Mr. Rowe other	
17 them anything I want. You understand what I'm saying when I	17 than that one time you mentioned?	
18 say snitch?	18 A. No.	
19 A. Yes.	19 Q. Were you ever told any advice about whether you	
20 Q. For your benefit, you had an informant who came and	20 should continue to censor his material or not?	
21 told you that there was what, talk of a riot?	21 A. No.	
22 A. Correct.	22 Q. You weren't told to stop?	
23 Q. What, if any, connection did you make to Mr. Rowe	23 A. No.	
24 about that?	24 Q. So in subsequent times after these two incidents of	
25 A. What connection did I make to Mr. Rowe?	25 censorship, you didn't find any other JPays that raised a	
Page 67		Page 69
1 Q. Yes, about the so called riot.	1 concern for you?	
2 A. I didn't make any connection to him until the	2 A. Ms. Brickhead contacted my intel officer and told	
3 petition stuff came up.	3 her. I don't know what they discussed, so I can't answer	
4 Q. And then you made the same connection that you made	4 that question, but for me, no.	
5 with the 40 or so other people who also signed it?	5 Q. And you don't know what they discussed?	
6 A. Correct.	6 A. No.	
7 Q. Whose blogs -- you didn't look to see whether they	7 Q. What's the name of that intel officer?	
8 had blogs, did you?	8 A. Perkerson. P-e-r-k-e-r-s-o-n.	
9 A. No, I did not.	9 Q. And first name?	
10 Q. And you didn't look at their JPays, did you?	10 A. N as is Nancy.	
11 A. Yes, I did.	11 Q. I have no further questions.	
12 Q. You did look at all 40?	12 MS. MAUGHAN: I don't have anything either.	
13 A. Yes, I did.	13 Halasz Reporting & Video   804.708.0025 14 RO Box 1644, Richmond, VA 23218-1644 14 (Deposition concluded at 2:40 p.m.) 15 AND FURTHER THIS DEponent SAITH NOT	
14 Q. Now, at any point were you told -- by the way, WHO'S		
15 Ms. Darden?	15	
16 A. I don't know who Ms. Darden is.	16	
17 Q. Wasn't she the Warden at some point?	17	
18 A. No, sir.	18	
19 Q. At Sussex? Was she an assistant warden?	19	
20 A. No, sir.	20	
21 Q. Okay. Who is Mr. Holloway? Do you know him?	21	
22 A. Yes, I do.	22	
23 Q. He is the --	23	
24 A. Regional.	24	
25 Q. Regional administrator?	25	

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1 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:  
2 I, Cynthia G. Shortlidge, notary public in and for the  
3 Commonwealth of Virginia at large, and whose commission  
4 expires August 31, 2019, do certify that the aforementioned  
5 appeared before me and that the foregoing is a true, correct  
6 and full transcript of the hearing.  
7 I further certify that I am neither related to nor  
8 associated with any counsel or party to this proceeding, nor  
9 otherwise interested in the event thereof.

10  
11 Given under my hand this 11th day of June, 2019, at  
12 Richmond, Virginia.  
13 UHURU ROWE v. 3:18 HAROLD C. CLARKE  
CARPENTER, LT. on 05/31/2019  
14  
15  
16 Cynthia G. Shortlidge, Notary Public  
17 Notary Registration Number 198638  
18  
19  
20  
21  
22  
23  
24  
25

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1 CHANGES REQUESTED TO THE DEPOSITION OF  
2 LT. MICHELLE CARPENTER, TAKEN ON MAY 31, 2019  
3 Page/Line: Change to/from: Reason:  
4 ======  
5 \_\_\_\_\_  
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13 \_\_\_\_\_  
14 Halasz Reporting & Video | 804.708.0025  
PO Box 1644 Richmond, VA 23218-1644  
15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 Lt. Michelle Carpenter  
20 Commonwealth of Virginia, to wit:  
21 Subscribed to before me  
22 this \_\_\_\_\_ day of \_\_\_\_\_, 2019.  
23 \_\_\_\_\_  
24 Notary Public  
25 My Commission expires: / /

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